

Introduced by Senator Alquist
(Principal coauthor: Senator Speier)
(Coauthor: Senator Denham)
(Coauthor: Assembly Member Cogdill)

February 22, 2005

An act to amend Sections 15202 and 30053 of, and to add Section 68502.6 to, the Government Code, and to amend Section 1037 of the Penal Code, relating to trial costs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1014, as introduced, Alquist. Trial costs: Peterson case.

(1) Existing law provides for state reimbursement of certain county costs incurred with respect to homicide trials. Existing law authorizes the Controller to reimburse extraordinary costs in unusual cases if the county provides sufficient justification, as specified.

This bill would make findings and declarations about the extraordinary costs incurred in the unusual case of *People v. Scott Peterson*. The bill would specifically authorize local agencies involved in that case to apply to the Controller for reimbursement of their extraordinary costs. The bill would require the Attorney General to develop a policy, to be submitted to the Legislature, regarding state reimbursement of local costs incurred in those types of cases.

(2) Existing law provides that when a court orders a change of venue to a court in another county, all costs incurred by that court or county, which are not payable by the state, as specified, shall be a charge against the court or the county in which the action originated. Existing law further requires that claims for these costs be forwarded to the treasurer and auditor of the county in which the action originated, and require the treasurer of the county of origin to pay the

amount of county costs out of the general funds of the county of origin.

This bill would require claims for these costs to be forwarded on a monthly basis, and would require the treasurer of the county of origin to pay the amount of the recipient county's costs out of the general funds of the county of origin within 30 days of receiving the recipient county's claim for costs. The bill would further provide, after January 1, 2004, in the event the county of origin does not comply with the claim for costs within 180 days of its service upon the treasurer of the county of origin, the presiding judge may order the Controller to pay the recipient county and the court in which the trial took place, as specified.

(3) Existing law authorizes the Judicial Council to include in its trial court budget process the allocation and reallocation of funds, and specifies that the Judicial Council shall retain the ultimate responsibility to adopt a budget and allocate funding for the trial courts.

This bill would require the Controller to reallocate the appropriation in the annual budget bill for trial court funding for the purpose of making the payment described in (1).

(4) Existing law continuously appropriates state sales and use tax revenues deposited in the Local Public Safety Fund to the Controller for allocation, as provided, to each qualified county, as defined.

This bill would require the Controller to reallocate the continuous appropriation for the purpose of making the payment described in (1). By changing the purpose of a continuous appropriation, the bill would make an appropriation.

(5) Existing law authorizes a county that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide to apply to the Controller for reimbursement of the costs incurred by the county, as specified, and requires the Controller, upon making a specified determination, to request the Director of Finance to include any amounts necessary to fulfill these purposes annually in a request for deficiency appropriation in augmentation of the emergency fund.

This bill would require the Controller to reallocate the deficiency appropriation in the annual budget bill for homicide trials for the purpose of making the payment described in (1).

(6) The bill would make additional conforming and clarifying changes.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The homicide case of People v. Scott Peterson incurred
4 unusual and extraordinary costs in investigating, preparing for
5 trial, and prosecuting the case.

6 (b) The challenges faced in the investigation of the
7 disappearance of Laci Peterson included all of the following:

8 (1) Involvement of the district attorney's office for over two
9 years.

10 (2) Assistance from more than 90 local, county, state and
11 federal agencies.

12 (3) More than 10,000 telephone leads that had to be
13 investigated.

14 (4) Extensive geographic areas had to be searched, due to trips
15 and direct leads from computer and forensic evidence, including
16 extensive searches in several bodies of water.

17 (5) Massive community response requiring search direction
18 and coordination.

19 (6) The obligation of law enforcement to follow up on all
20 leads, regardless of cost or difficulty.

21 (c) The cost of the investigation and prosecution of the
22 murders of Laci and Connor Peterson have placed a tremendous
23 burden on local agencies who have a responsibility to protect the
24 public, despite the enormous financial burden imposed as a result
25 of this homicide investigation and prosecution.

26 (d) The Legislature further finds that the law which provides
27 for state reimbursement of certain county costs related to
28 homicide trials was originally intended to assure rural local
29 agencies that inadequate financial resources would not impede
30 the pursuit of justice.

31 (e) It is fundamentally important to our judicial system, on
32 behalf of both the victim and the accused, that rural local

1 agencies have adequate resources when these extraordinary cases
2 occur.

3 SEC. 2. Local agencies may apply to the Controller, pursuant
4 to Section 15202 of the Government Code, for reimbursement of
5 the extraordinary costs incurred in investigation and prosecution
6 of the unusual case of People v. Scott Peterson that exceed the
7 State Board of Control's standards for travel and per diem
8 expenses.

9 SEC. 3. The Attorney General shall develop a policy
10 regarding, and shall submit to the Legislature by January 1, 2006,
11 guidelines for, when and how to make reimbursements to local
12 agencies for extraordinary cases.

13 SEC. 4. Section 15202 of the Government Code, as amended
14 by Section 11 of Chapter 127 of the Statutes of 1994, is amended
15 to read:

16 15202. ~~A~~ (a) *Except as provided in paragraph (3) of*
17 *subdivision (e) of Section 1037 of the Penal Code, a county which*
18 *that is responsible for the cost of a trial or trials or any hearing of*
19 *a person for the offense of homicide may apply to the Controller*
20 *for reimbursement of the costs incurred by the county in excess*
21 *of the amount of money derived by the county from a tax of*
22 *0.0125 of 1 percent of the full value of property assessed for*
23 *purposes of taxation within the county.*

24 (b) The Controller shall not reimburse any county for costs
25 that exceed the State Board of Control's standards for travel and
26 per diem expenses. The Controller may reimburse extraordinary
27 costs in unusual cases if the county provides sufficient
28 justification of the need for these expenditures. Nothing in this
29 section shall permit the reimbursement of costs for travel in
30 excess of 1,000 miles on any single round trip, without the prior
31 approval of the Attorney General.

32 ~~This section shall become operative on January 1, 2005.~~

33 SEC. 5. Section 30053 of the Government Code is amended
34 to read:

35 30053. (a) ~~On~~ *Except as provided in paragraph (2) of*
36 *subdivision (e) of Section 1037 of the Penal Code, on or before*
37 *the 27th day of each month, the Controller shall allocate to each*
38 *qualified county the amounts deposited and remaining*
39 *unexpended and unresolved in the Local Public Safety Fund on*
40 *the 15th day of each month as provided in Section 30052.*

(b) Commencing with the 1996–97 fiscal year, on or before the 20th day of each month, the county auditor shall, as provided in Section 30055, allocate to the county and to each city within the county those amounts allocated to the county in the previous month pursuant to subdivision (a).

SEC. 6. Section 68502.6 is added to the Government Code, to read:

68502.6. Notwithstanding Section 68502.5, the Controller shall reallocate from the county of origin to the recipient county the amount of court costs due to the recipient county pursuant to Section 1037 of the Penal Code.

SEC. 7. Section 1037 of the Penal Code is amended to read:

1037. (a) When a court orders a change of venue to a court in another county, all costs incurred by that court or county, ~~which~~ *that* are not payable pursuant to Section 4750; for the transfer, preparation, and trial of the action, the guarding, keeping, and transportation of the prisoner, *and* any appeal or other proceeding relating to the action and execution of the sentence, shall be a charge against the court or the county in which the action originated. For the purposes of this section, costs that are included in the definition of court operations, as defined in Section 77003 of the Government Code and Rule 810 of the California Rules of Court, shall be considered court costs and are a charge against the court in the county in which the action originated. All other costs shall be considered county costs and are a charge against the county in which the action originated.

(b) Claims for the costs described in subdivision (a) shall be forwarded to the treasurer and auditor of the county in which the action originated *on a monthly basis*. The treasurer *of the county of origin* shall pay the amount of ~~county~~ *the recipient county's* costs out of the general funds of the county *of origin within 30 days of receiving the recipient county's claim for costs*. The presiding judge of the court, or his or her designee, shall authorize, and the treasurer *of the county of origin* shall pay, the amount of court costs out of the local trial court operations fund as directed by the court. Payments for claims for court costs shall be deposited into the local trial court operations fund established pursuant to Section 77009 of the Government Code.

(c) The term “all costs” means all reasonable and necessary costs incurred by the county or court as a result of the change of

1 venue~~which~~ that would not have been incurred but for the
2 change, and does not include normal salaries, overhead, and
3 other expenses~~which~~ that would have been incurred by the
4 county or court in any event.

5 (d) The trial court may, in its sound discretion, approve any
6 cost as reasonable and necessary under this section. Prior to the
7 trial court's issuing any order approving such a cost, the clerk
8 shall give 10 days' written notice of the court's intention to issue
9 an order to the auditor of the county in which the action
10 originated. The auditor may appear for the limited purpose of
11 opposing the issuance of the order. If he or she fails to appear,
12 the county of origin may not in any other proceeding contest the
13 imposition of these costs.

14 (e) *On and after January 1, 2004, in the event the county of*
15 *origin does not pay the claim for costs within 180 days of its*
16 *service upon the treasurer of the county of origin, the presiding*
17 *judge may order the Controller to pay the recipient county and*
18 *the court in which the trial took place, as follows:*

19 (1) *In the case of an order for the payment of court costs, the*
20 *Controller shall deduct the amount owing from the county of*
21 *origin's state allocation for trial court funding pursuant to*
22 *Sections 68502.5 and 68502.6 of the Government Code.*

23 (2) *In the event of an order for the payment of county costs,*
24 *and to the extent funds are available for allocation pursuant to*
25 *Section 35 of Article XIII of the California Constitution, the*
26 *Controller shall deduct the amount owing from the allocation*
27 *that the county of origin would otherwise receive from the Local*
28 *Public Safety Fund pursuant to Sections 30052 and 30053 of the*
29 *Government Code and pay that amount to the recipient county.*

30 (3) *In the event of an order for the payment of county costs,*
31 *and to the extent funds are appropriated in the annual Budget*
32 *Act pursuant to Section 15203 of the Government Code, the*
33 *Controller shall reimburse the recipient county for all costs still*
34 *owing thereto, as permitted by law, from the deficiency*
35 *appropriation for homicide trials.*

36 SEC. 8. This act is an urgency statute necessary for the
37 immediate preservation of the public peace, health, or safety
38 within the meaning of Article IV of the Constitution and shall go
39 into immediate effect. The facts constituting the necessity are:

1 In order for local agencies to be reimbursed as soon as
2 possible, it is necessary that this act take effect immediately.

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